



Paper No. 12

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OFFICE OF PETITIONS

In re Application of :
Chuang, Kaufman, Hsu :
Application No.: 09/577,461 : ON RENEWED PETITION
Filed: May 24, 2000 :
Attorney Docket No: KCX-157 (14661) :
For: TISSUE IMPULSE DRYING :

This is in response to the renewed petitions under 37 CFR 1.47(a), 1.181(a), and 1.137(b) filed April 8, 2003.

The petition under 37 CFR 1.47(a) is **MOOT**.

The petition under 37 CFR 1.181(a) is **GRANTED**.

The petition under 37 CFR 1.137(b) is **MOOT**.

TREATMENT UNDER 37 CFR 1.47(a)

The initial petition under 37 CFR 1.47(a) was filed on August 15, 2002, in response to a "Notice to File Missing Parts of Non-Provisional Application" (the "Notice") which indicated that a proper oath or declaration had not been filed and that a surcharge for either a late filing fee or oath or declaration was due and owing. A decision dismissing the petition of August 15, 2002, was mailed on February 28, 2003. The decision indicated that petitioner did not provide adequate evidence of the efforts to locate inventor Chuang. The decision also advised petitioner of the two-month period for reply beginning from the mailing date of the decision and that extension of time for reply were available pursuant to 37 CFR 1.136(a). On April 8, 2003, petitioner filed a renewed petition. Petitioner also filed a declaration executed by inventor Chuang who was previously the non-signing inventor.

As petitioner has secured a proper oath or declaration from Mr. Chuang, there is no outstanding issue relative to the instant application that could be remedied by a petition filed pursuant to 37 CFR 1.47(a). The renewed petition is, therefore, rendered moot by the filing of Mr. Chuang's declaration.

TREATMENT UNDER 37 CFR 1.181(a)

This application was held abandoned on September 20, 2000, after no reply was received to the Notice of Missing Parts of Nonprovisional Application (the "Notice") mailed July 19, 2000. The Notice set forth a shortened period for reply of two months from its mailing date. No response was received within the allowable period and the application became abandoned on September 20, 2000. A first petition to withdraw the holding of abandonment was received on August 15, 2002, but was dismissed by a decision mailed February 28, 2002.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as to prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

Petitioner appropriately responded to the Notice by remitting on April 8, 2003, a declaration executed by inventor Chuang.

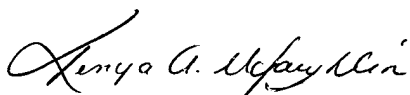
TREATMENT UNDER 37 CFR 1.137(b)

As the holding of abandonment has been withdrawn pursuant to 37 CFR 1.181, there is no other remedy that could be provided under 37 CFR 1.137(b). The petition under 37 CFR 1.137(b) is, therefore, dismissed as moot.

Petitioner will be refunded the petition fee of \$1280.00, in due course.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 305-0010.



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Office of Petitions